

AMENDED IN SENATE APRIL 22, 2003

SENATE BILL

No. 919

Introduced by Senator Ortiz

February 21, 2003

An act to amend ~~Section~~ *Sections 241 and 243* of the Penal Code, relating to ~~battery crime~~.

LEGISLATIVE COUNSEL'S DIGEST

SB 919, as amended, Ortiz. Battery: code enforcement officers.

Under existing law, while assault is punishable by a fine not exceeding \$1,000, or by imprisonment in a county jail not exceeding 6 months, or by both the fine and imprisonment, when an assault is committed against specified officers or other persons the offense is a misdemeanor punishable by a fine not exceeding \$2,000, or by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

This bill would include a code enforcement officer, as defined, in the list of specified officers or persons to which these provisions apply.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

Under existing law, while battery is generally a misdemeanor punishable by county jail time not exceeding 6 months or a specified fine, or both, the battery of specified officers or other persons is a misdemeanor punishable by county jail time not exceeding one year and by a specified fine or by both, ~~and the battery of those specified officers or other persons where there is infliction of injury is punishable by county jail time not exceeding one year and by a specified fine or by both, or as a felony.~~

This bill would include a code enforcement officer, as defined, in the list of specified officers or other persons to which the above provisions apply.

By expanding the scope of existing crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 241 of the Penal Code is amended to*
2 *read:*

3 241. (a) An assault is punishable by a fine not exceeding one
4 thousand dollars (\$1,000), or by imprisonment in the county jail
5 not exceeding six months, or by both the fine and imprisonment.

6 (b) When an assault is committed against the person of a peace
7 officer, firefighter, emergency medical technician, mobile
8 intensive care paramedic, lifeguard, process server, traffic officer,
9 *code enforcement officer*, or animal control officer engaged in the
10 performance of his or her duties, or a physician or nurse engaged
11 in rendering emergency medical care outside a hospital, clinic, or
12 other health care facility, and the person committing the offense
13 knows or reasonably should know that the victim is a peace officer,
14 firefighter, emergency medical technician, mobile intensive care
15 paramedic, lifeguard, process server, traffic officer, *code*
16 *enforcement officer*, or animal control officer engaged in the
17 performance of his or her duties, or a physician or nurse engaged
18 in rendering emergency medical care, the assault is punishable by
19 a fine not exceeding two thousand dollars (\$2,000), or by
20 imprisonment in the county jail not exceeding one year, or by both
21 the fine and imprisonment.

22 (c) As used in this section, the following definitions apply:

23 (1) Peace officer means any person defined in Chapter 4.5
24 (commencing with Section 830) of Title 3 of Part 2.



(2) “Emergency medical technician” means a person possessing a valid course completion certificate from a program approved by the State Department of Health Services for the medical training and education of ambulance personnel, and who meets the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(3) “Mobile intensive care paramedic” refers to those persons who meet the standards set forth in Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(4) “Nurse” means a person who meets the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(5) “Lifeguard” means a person who is:

(A) Employed as a lifeguard by the state, a county, or a city, and is designated by local ordinance as a public officer who has a duty and responsibility to enforce local ordinances and misdemeanors through the issuance of citations.

(B) Wearing distinctive clothing which includes written identification of the person’s status as a lifeguard and which clearly identifies the employing organization.

(6) “Process server” means any person who meets the standards or is expressly exempt from the standards set forth in Section 22350 of the Business and Professions Code.

(7) “Traffic officer” means any person employed by a county or city to monitor and enforce state laws and local ordinances relating to parking and the operation of vehicles.

(8) “Animal control officer” means any person employed by a county or city for purposes of enforcing animal control laws or regulations.

(9) *“Code enforcement officer” means any person who is not described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 and who is employed by any governmental subdivision, public or quasi-public corporation, public agency, public service corporation, any town, city, county, or municipal corporation, whether incorporated or chartered, that has enforcement authority for health, safety, and welfare requirements, and whose duties include enforcement of any statute, rules, regulations, or standards, and who is authorized to issue citations, or file formal complaints.*

SEC. 2. Section 243 of the Penal Code is amended to read:

1 243. (a) A battery is punishable by a fine not exceeding two
2 thousand dollars (\$2,000), or by imprisonment in a county jail not
3 exceeding six months, or by both that fine and imprisonment.

4 (b) When a battery is committed against the person of a peace
5 officer, custodial officer, firefighter, emergency medical
6 technician, lifeguard, process server, traffic officer, code
7 enforcement officer, or animal control officer engaged in the
8 performance of his or her duties, whether on or off duty, including
9 when the peace officer is in a police uniform and is concurrently
10 performing the duties required of him or her as a peace officer
11 while also employed in a private capacity as a part-time or casual
12 private security guard or patrolman, or a nonsworn employee of
13 a probation department engaged in the performance of his or her
14 duties, whether on or off duty, or a physician or nurse engaged in
15 rendering emergency medical care outside a hospital, clinic, or
16 other health care facility, and the person committing the offense
17 knows or reasonably should know that the victim is a peace officer,
18 custodial officer, firefighter, emergency medical technician,
19 lifeguard, process server, traffic officer, code enforcement officer,
20 or animal control officer engaged in the performance of his or her
21 duties, nonsworn employee of a probation department, or a
22 physician or nurse engaged in rendering emergency medical care,
23 the battery is punishable by a fine not exceeding two thousand
24 dollars (\$2,000), or by imprisonment in a county jail not exceeding
25 one year, or by both that fine and imprisonment.

26 (c) (1) When a battery is committed against a custodial officer,
27 firefighter, emergency medical technician, lifeguard, process
28 server, traffic officer, ~~code enforcement officer~~, or animal control
29 officer engaged in the performance of his or her duties, whether on
30 or off duty, or a nonsworn employee of a probation department
31 engaged in the performance of his or her duties, whether on or off
32 duty, or a physician or nurse engaged in rendering emergency
33 medical care outside a hospital, clinic, or other health care facility,
34 and the person committing the offense knows or reasonably should
35 know that the victim is a nonsworn employee of a probation
36 department, custodial officer, firefighter, emergency medical
37 technician, lifeguard, process server, traffic officer, ~~code~~
38 ~~enforcement officer~~ or animal control officer engaged in the
39 performance of his or her duties, or a physician or nurse engaged
40 in rendering emergency medical care, and an injury is inflicted on

1 that victim, the battery is punishable by a fine of not more than two
2 thousand dollars (\$2,000), by imprisonment in a county jail not
3 exceeding one year, or by both that fine and imprisonment, or by
4 imprisonment in the state prison for 16 months, or two or three
5 years.

6 (2) When the battery specified in paragraph (1) is committed
7 against a peace officer engaged in the performance of his or her
8 duties, whether on or off duty, including when the peace officer is
9 in a police uniform and is concurrently performing the duties
10 required of him or her as a peace officer while also employed in
11 a private capacity as a part-time or casual private security guard or
12 patrolman and the person committing the offense knows or
13 reasonably should know that the victim is a peace officer engaged
14 in the performance of his or her duties, the battery is punishable
15 by a fine of not more than ten thousand dollars (\$10,000), or by
16 imprisonment in a county jail not exceeding one year or in the state
17 prison for 16 months, or two or three years, or by both that fine and
18 imprisonment.

19 (d) When a battery is committed against any person and serious
20 bodily injury is inflicted on the person, the battery is punishable
21 by imprisonment in a county jail not exceeding one year or
22 imprisonment in the state prison for two, three, or four years.

23 (e) (1) When a battery is committed against a spouse, a person
24 with whom the defendant is cohabiting, a person who is the parent
25 of the defendant's child, former spouse, fiancé, or fiancée, or a
26 person with whom the defendant currently has, or has previously
27 had, a dating or engagement relationship, the battery is punishable
28 by a fine not exceeding two thousand dollars (\$2,000), or by
29 imprisonment in a county jail for a period of not more than one
30 year, or by both that fine and imprisonment. If probation is
31 granted, or the execution or imposition of the sentence is
32 suspended, it shall be a condition thereof that the defendant
33 participate in, for no less than one year, and successfully complete,
34 a batterer's treatment program, as defined in Section 1203.097, or
35 if none is available, another appropriate counseling program
36 designated by the court. However, this provision shall not be
37 construed as requiring a city, a county, or a city and county to
38 provide a new program or higher level of service as contemplated
39 by Section 6 of Article XIII B of the California Constitution.

(2) Upon conviction of a violation of this subdivision, if probation is granted, the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(A) That the defendant make payments to a battered women's shelter, up to a maximum of five thousand dollars (\$5,000).

(B) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

(3) Upon conviction of a violation of this subdivision, if probation is granted or the execution or imposition of the sentence is suspended and the person has been previously convicted of a violation of this subdivision and sentenced under paragraph (1), the person shall be imprisoned for not less than 48 hours in addition to the conditions in paragraph (1). However, the court, upon a showing of good cause, may elect not to impose the mandatory minimum imprisonment as required by this subdivision and may, under these circumstances, grant probation or order the suspension of the execution or imposition of the sentence.

(4) The Legislature finds and declares that these specified crimes merit special consideration when imposing a sentence so as to display society's condemnation for these crimes of violence upon victims with whom a close relationship has been formed.

(f) As used in this section:

(1) "Peace officer" means any person defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

1 (2) “Emergency medical technician” means a person who is
2 either an EMT-I, EMT-II, or EMT-P (paramedic), and possesses a
3 valid certificate or license in accordance with the standards of
4 Division 2.5 (commencing with Section 1797) of the Health and
5 Safety Code.

6 (3) “Nurse” means a person who meets the standards of
7 Division 2.5 (commencing with Section 1797) of the Health and
8 Safety Code.

9 (4) “Serious bodily injury” means a serious impairment of
10 physical condition, including, but not limited to, the following:
11 loss of consciousness; concussion; bone fracture; protracted loss
12 or impairment of function of any bodily member or organ; a
13 wound requiring extensive suturing; and serious disfigurement.

14 (5) “Injury” means any physical injury which requires
15 professional medical treatment.

16 (6) “Custodial officer” means any person who has the
17 responsibilities and duties described in Section 831 and who is
18 employed by a law enforcement agency of any city or county or
19 who performs those duties as a volunteer.

20 (7) “Lifeguard” means a person defined in paragraph (5) of
21 subdivision (c) of Section 241.

22 (8) “Traffic officer” means any person employed by a city,
23 county, or city and county to monitor and enforce state laws and
24 local ordinances relating to parking and the operation of vehicles.

25 (9) “Animal control officer” means any person employed by
26 a city, county, or city and county for purposes of enforcing animal
27 control laws or regulations.

28 (10) “Dating relationship” means frequent, intimate
29 associations primarily characterized by the expectation of
30 affectional or sexual involvement independent of financial
31 considerations.

32 (11) “Code enforcement officer” means any person who is not
33 described in Chapter 4.5 (commencing with Section 830) of Title
34 3 of Part 2 and who is employed by any governmental subdivision,
35 public or quasi-public corporation, public agency, public service
36 corporation, any town, city, county, or municipal corporation,
37 whether incorporated or chartered, who has enforcement authority
38 for health, safety, and welfare requirements, and whose duties
39 include enforcement of any statute, rules, regulations, or

1 standards, and who is authorized to issue citations, or file formal
2 complaints.

3 (g) It is the intent of the Legislature by amendments to this
4 section at the 1981–82 and 1983–84 Regular Sessions to abrogate
5 the holdings in cases such as *People v. Corey*, 21 Cal. 3d 738, and
6 *Cervantez v. J.C. Penney Co.*, 24 Cal. 3d 579, and to reinstate prior
7 judicial interpretations of this section as they relate to criminal
8 sanctions for battery on peace officers who are employed, on a
9 part-time or casual basis, while wearing a police uniform as private
10 security guards or patrolmen and to allow the exercise of peace
11 officer powers concurrently with that employment.

12 ~~SEC. 2.~~

13 *SEC. 3.* No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.

